

**EXHIBIT A**

**BIDDING PROCEDURES**

## BID PROCEDURES

The following bid procedures (“**Bid Procedures**”), which are subject to approval by the United States Bankruptcy Court for the Eastern District of New York (“**Bankruptcy Court**”) in the bankruptcy case of *In re Green Point Management Systems* (“**Debtor**”) (Case No. 23-71078 (LAS)) (“**Bankruptcy Case**”), shall govern the auction (“**Auction**”) and sale (“**Sale**”) of unit 106 in 231 Norman Avenue, Brooklyn, New York (“**Property**”), described in *Green Point Management System LLC’s Chapter 11 Plan of Reorganization* (“**Plan**”) filed in the Bankruptcy Case.<sup>1</sup>

These Bid Procedures describe, among other things: (i) the procedures for bidders to submit bids for the Property; (ii) the manner in which bidders and bids become **Qualified Bidders** and **Qualified Bids** (each as defined herein); (iii) the negotiation of bids received; (iv) the conduct of the Auction; and (v) the ultimate selection of the **Successful Bidder** (as defined herein) and Court approval thereof (collectively, “**Bidding and Auction Process**”).

Columbia Capital Co. a secured creditor of Debtor, which holds the mortgage on the Property (“**Lender**”), has the right to make a **Credit Bid** (as defined below) in an amount up to the Allowed amount of its Claim as of the auction date, which shall be no later than November 8, 2023 (the “**Auction Date**”). The Lender has made no determination as to whether it will credit bid and if it does, in what amount.

The Debtor has filed the Plan and anticipates seeking confirmation of that Plan. The Bankruptcy Court approved these bidding procedures on October \_\_ 2023 (“**Bid Procedures Approval Order**”). Following the Auction, on November 16, 2023, the Debtor will seek entry of an order from the Bankruptcy Court authorizing and approving the Sale of the Property free and clear of liens, claims, encumbrances, and interests (subject to certain exceptions listed in paragraphs B(ii) and B(iii) below), to the successful bidder as may be made at the Auction (as defined below).

## GENERAL CONDITIONS

- A. **Approvals.** The proposed Sale shall in all respects be subject to approval by the Bankruptcy Court and in compliance with (i) the applicable provisions of the Bankruptcy Code, (ii) the Bankruptcy Rules, and (iii) other applicable rules and law.
- B. **Assets to be Sold.** The assets to be sold shall consist of the Property, which will be sold as follows:

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<sup>1</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Plan.

- (i) The Property will be auctioned by Northgate Real Estate Group (“**Broker**”) or its affiliates or agents, who will be retained in this Bankruptcy Case to be the exclusive broker of the Property. Such sale shall be free and clear of liens, claims, encumbrances, and interests, except as provided in paragraphs B(ii) and B(iii) below.
- (ii) All unexpired leases and executory contracts that are related to the Property (if any) shall be rejected unless the Successful Bidder files an assumption notice at least 5 days prior to the hearing to approve the sale. Bidders should note that even if an unexpired lease is rejected, the lessee retains certain rights, including its rights under 11 U.S.C. § 365(h), which may include the right of the lessee to “retain its rights under such lease (including rights such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee and any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) that are in or appurtenant to the [Property] for the balance of the term of such lease and for any renewal or extension of such rights to the extent that such rights are enforceable under applicable nonbankruptcy law.” 11 U.S.C. § 365(h)(1)(A)(ii).

C. **Sale As Is, Where Is.** The Property shall be sold as is, where is, without any representation or warranty of any type whatsoever.

### ***AUCTION QUALIFICATION PROCEDURES***

- A. **Qualification of Bidders.** Any potential bidder who wishes to submit a bid with respect to the Property must demonstrate to the satisfaction of the Broker that such potential bidder is a “**Qualified Bidder.**” A Qualified Bidder is a potential bidder who delivers to the Broker a written and signed, binding offer in both PDF and MS-WORD format **on or before the Bid Deadline** (as defined below) that:
- (i) is a bid for the Property in its entirety for a cash price equal to or greater than \$[tbd];
  - (ii) states that the bidder is prepared to enter into a legally binding purchase and sale agreement (“**PSA**”) for the acquisition of the Property on terms and conditions reasonably acceptable to Broker (as determined by Broker and Debtor in their reasonable business judgment), including by marking up the PSA, which will be provided to the bidder at least 5 days prior to the Bid Deadline, to indicate what the bidder would be willing to execute;

- (iii) states the bidder's offer is irrevocable, not contingent, formal, binding, and unconditional, is not subject to any due diligence or financing contingency, and is irrevocable until the first business day following the closing of the proposed Sale, except as otherwise provided in these Bid Procedures;
- (iv) states and acknowledges that the bidder will not request, and is not entitled to, any transaction or break-up fee, expense reimbursement, or similar type of payment;
- (v) is accompanied by evidence that a good faith deposit in the amount of 10% of the bid amount ("**Good Faith Deposit**"), in immediately available funds, has been made (or is concurrently being made) by wire transfer to Jacobs P.C., as escrow agent ("**Escrow Agent**"), pursuant to wire instructions to be provided by Broker and/or Escrow Agent, and acknowledges that the Good Faith Deposit shall be held by Escrow Agent in a non-interest bearing, segregated account of Escrow Agent for Debtor's estate in accordance with the terms hereof;
- (vi) states that the bidder is financially capable of consummating the transaction contemplated by the bidder's bid and any increased or modified bid that may be made at the Auction;
- (vii) is accompanied by financial information satisfactory to Broker that fairly and reasonably demonstrates Potential Bidder's ability (and the sources of Potential Bidder's ability) to close on its purchase of the Property if Potential Bidder should be **Successful Bidder** (as defined herein), in an amount at least as much as its bid as necessary to consummate the transaction contemplated by the bidder's bid and any increased or modified bid that may be made at the Auction;
- (viii) includes an executed original of these Bid Procedures acknowledging and agreeing to these Bid Procedures and all the terms thereof, including the following:
  - 1. If Potential Bidder is a partner, officer, director, stockholder, agent, employee, insider, or affiliate of Debtor, Debtor's principals, Broker, or any relative of any of the foregoing, such Potential Bidder must so disclose the exact nature of its relationship with the foregoing entities;
  - 2. Potential Bidder relied solely on its own independent investigation, analysis, appraisal, and evaluation of the Property and it did not rely upon and did not receive any written or oral statements, representations, warranties, promises, or guarantees

whatsoever, whether express or implied or by operation of law or otherwise, with respect to the Property; and

3. Potential Bidder's bid is irrevocable until the earlier of the Closing Date (as defined herein) or until its bid is affirmatively rejected;
- (ix) includes evidence of authorization and approval from the bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery, and closing of a PSA, if applicable; and
  - (x) contains other information reasonably requested by Broker.
  - (xi) In connection with the Sale, a person or entity may seek to credit bid all or a portion of their secured claims for their respective collateral (each such bid, a "**Credit Bid**") pursuant to section 363(k) of the Bankruptcy Code.
  - (xii) Each Bid must include the following representations and warranties:
    1. a statement that the Potential Bidder has had an opportunity to conduct any and all due diligence regarding the Property prior to submitting its Bid;
    2. a statement that the Potential Bidder has relied solely upon its own independent review, investigation, and/or inspection of any relevant documents in making its Bid and did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding the Property or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the Potential Bidder's Proposed APA ultimately accepted and executed by the Broker and the Debtor;
    3. a statement that the Potential Bidder agrees to serve as **Back-Up Bidder** (as defined herein), if its Bid is selected as the next highest or next best bid after the Successful Bid with respect to the Property, until the Back-Up Bid Termination Date (as defined herein);
    4. a statement that the Potential Bidder has not engaged in any collusion with respect to the submission of its Bid;
    5. a statement that all proof of financial ability to consummate the

Sale in a timely manner and all information provided to support its financial ability to consummate the Sale is true and correct; and

6. a statement that the Potential Bidder agrees to be bound by the terms of these Bid Procedures.
- (xiii) Notwithstanding anything herein to the contrary, Lender, or its nominee, designee, or assignee is a Qualified Bidder and is entitled to Credit Bid, in an amount up to the Allowed amount of the Lender Claim (as defined in the Plan) as of the Auction Date, for the Property pursuant to 11 U.S.C. § 363(k), without the need for any deposit or fulfilling the other requirements for a Potential Bidder to be a Qualifying Bidder.
- B. A bid meeting the above requirements shall constitute a “**Qualified Bid.**” Broker shall make a determination regarding whether a bid is a Qualified Bid and shall notify bidders whether their bids have been determined to be qualified by no later than 5p.m. two business days prior to the date of the Auction. Notwithstanding the foregoing, at Broker’s discretion, a subsequent bid may be allowed until the commencement of the auction.
- C. **Communications with Potential Bidders.** Communications between and amongst Potential Bidders is prohibited unless the Debtor and the Broker has previously authorized such communication in writing. The Debtor or the Broker reserve the right, in their reasonable business judgment, to disqualify any Potential Bidder(s) that have communications between and amongst themselves.

### ***OTHER FINANCIAL TERMS***

- A. **Buyer’s Premium.** Consistent with the to-be-proposed retention agreement of Broker, as shall be approved by the Bankruptcy Court in an order dated [●] [Docket No. ●], the Buyer’s Premium shall be eight percent (8%) of the gross purchase price for the Property. Any Buyer’s Premium payable must be paid to Broker at closing.
- (i) Notwithstanding the foregoing, if Lender is the successful purchaser by bidding all or a portion of its claim and closes on the purchase, Lender shall pay Broker a commission equal to four percent (4%). If Lender is the successful purchaser by bidding its claim plus cash above its claim and closes on the purchase, Lender shall pay Broker a commission equal to eight percent (8%). If any assignee of Lender not affiliated with Lender is the successful purchaser and/or closes on the purchase of the Property, then the assignee must pay the buyer’s premium equal to eight percent (8%) of the gross purchase price for the Property.

- B. **Deposits Following Auction.** If a Potential Bidder becomes the Successful Bidder as to the Property, it shall, within two (2) business days after the Auction, increase the Deposit as necessary to an amount equal to ten (10%) percent of (i) the final bid at the Auction, plus (ii) the Buyer's Premium within 48 hours of the Auction **TIME BEING OF THE ESSENCE**. Failure to comply with this requirement shall result in an immediate (i) default under the terms of these Bid Procedures; and (ii) forfeiture of the Successful Bidder's Deposit. If a Potential Bidder is not the Successful Bidder or the Back-up Bidder (as defined herein) as to the Property, such Potential Bidder's Deposit shall be returned to such Potential Bidder within 5 business days after the conclusion of the Auction. The Successful Bidder and Back-up Bidder's Deposits shall be held pending the closing. If the Sale to the Successful Bidder closes as to a particular Property, the Back-up Bidder's Deposit for such Property shall be returned within 5 business days of such closing. The Lender is not required to provide any deposit.
- C. **Closing Deadline.** Successful Bidder shall close on the purchase of the Property within thirty (30) days after the completion of the Auction and entry of an order by the Bankruptcy Court approving the Sale to the Successful Bidder, unless otherwise agreed in writing by the Debtor or by order of the Bankruptcy Court ("**Closing Date**"), with time being of the essence as to successful bidder's obligation to close on the closingdate and to pay the balance of the purchase price at the closing.
- D. **Sale Approval.** The sale of the Property to the successfully Bidder will be approved by the Court pursuant to section 363 of the Bankruptcy Code. Similarly, the Sale Approval Order contains findings regarding the good faith and non-collusive behavior of the purchaser of the Property that are equivalent to those contained in section 363(m) and (n) of the Bankruptcy Code. Within two weeks of the completion of the Auction, Successful Bidder will file any affirmation or similar document (with exhibits if necessary) the Bankruptcy Court or the Debtor requires to enable the Debtor to obtain the benefit of such an order from the Bankruptcy Court.

### ***BID DEADLINE***

**All Qualified Bids must be submitted on or before November \_\_, 2023** ("**Bid Deadline**") unless extended by the Broker in its discretion with notice to be provided to all parties that have expressed serious interest (as determined by Broker) in potentially bidding on the Property. On or prior to the Bid Deadline, Qualified Bidders shall deliver written copies of their bids to: (1) Broker; (2) counsel to the Debtor, Jacobs P.C., 595 Madison Avenue, 39<sup>th</sup> Floor, New York, NY 10022, with a copy to the following email addresses: [leo@jacobspsc.com](mailto:leo@jacobspsc.com) and (3) counsel to Columbia Capital Co., Richard S. Feinsilver, One Old Country Road, Suite 347, Carle Place, N.Y.

11514 with a copy to [feinlawny@yahoo.com](mailto:feinlawny@yahoo.com). **Any party that does not submit a Qualifying Bid by the Bid Deadline will not be allowed to (i) submit any offer after the Bid Deadline or (ii) participate in the Auction.**

### ***AUCTION PROCEDURES***

- A. **Auction**. In the event that Broker and the Debtor receive before the Bid Deadline one or more bids that Debtor and Broker deem in their discretion to constitute Qualified Bids (other than by Lender or its nominee, designee, or assignee) as to the Property, Broker shall conduct an auction with respect to the Property (“**Auction**”). The Auction shall take place on or before November 8, 2023 at 11 a.m. (ET) (“**Auction Time**”) at Jacobs P.C., 595 Madison Avenue, 39<sup>th</sup> Floor, New York, NY 10022, or such other place and time as Broker shall notify all Qualified Bidders, Debtor, Lender, and other invitees via e-mail or facsimile not later than one (1) business day before the Auction Time (or re-scheduled Auction Time, as applicable), but in no event shall the Auction take place on a date that is earlier than ten (10) days from the date of the entry of the Bid Procedures Approval Order; provided, however, that Broker may designate the Auction as an on-line auction and provide each Qualified Bidder with the appropriate instructions to participate in same, if Broker deems it necessary or advisable, in Broker’s sole and absolute discretion. If, however, no such other Qualified Bid is received by the Bid Deadline with respect to the Property, then the Auction will not be held as to the Property, and Broker shall so notify the Debtor no later than one (1) business day after the Bid Deadline and the Debtor shall proceed to seek approval of the Bankruptcy Court of the sale of such Property to Lender (or its nominee, designee, or assignee) based on Lender’s credit bid. The Auction shall be governed by the following procedures:
- (i) Only authorized representatives and respective counsel of each of the Qualified Bidders, Debtor, and Broker shall be permitted to attend and participate at the Auction, unless otherwise agreed to by Broker in its sole discretion;
  - (ii) Only Lender (or its nominee, designee, or assignee) and other Qualified Bidders shall be entitled to make any subsequent bids at the Auction;
  - (iii) Lender (or its nominee, designee, or assignee) and each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale;
  - (iv) Bidding shall commence at the amount of the highest and best Qualified Bid submitted by the Qualified Bidders by the Bid Deadline;



- (v) Bidding increments shall be established at \$50,000.00; at Broker's discretion, this increment can be reduced.
- (vi) Lender (or its nominee, designee, or assignee) and other Qualified Bidders shall participate in person at the Auction (or through a method designated by Broker, including physically present or present through electronic means, such as Zoom), through a duly authorized representative with authority to bind the entity;
- (vii) The Auction will be conducted so that Lender (or its nominee, designee, or assignee), and each other Qualified Bidder will be informed of the previous bid;
- (viii) The Auction shall continue until there is only one final offer for the Property that Broker and Debtor determine, subject to Bankruptcy Court approval, is the highest and best offer submitted at the Auction from among Lender (or its nominee, designee, or assignee) and the other Qualified Bidders ("**Successful Bid**"). The bidder submitting such Successful Bid shall become a "**Successful Bidder**" as to the Property and shall have such rights and responsibilities set forth herein, in the applicable Plan and in the PSA;
- (ix) At the end of the Auction, Broker shall also announce the next highest and otherwise best offer after the Successful Bid (the "**Next Highest Bid**," and the Qualified Bidder that submitted such bid, the "**Next Highest Bidder**");
- (x) The Debtor reserves the right to seek approval of the Next Highest Bid as a back-up bid and may seek approval at the Sale Hearing to close the Sale to the Next Highest Bidder if the Successful Bidder fails to close for any reason or if it otherwise fails to satisfy any requirements hereof or of the PSA;
- (xi) If the Next Highest Bidder is determined by Broker and Debtor to have submitted the Next Highest Bid, or next best bid ("**Next Best Bid**") at the Auction, it will be considered a back-up bid ("**Backup Bid**") and, the Next Highest Bidder, therefore, to be designated the back-up bidder ("**Back-up Bidder**"), who shall be notified in writing that the Debtor has determined to proceed with the Back-up Bid after default by the Successful Bidder, the Potential Bidder shall close on the purchase of the Property on the Back-up Closing Date (as defined herein), with TIME BEING OF THE ESSENCE AS TO THE BACK-UP BIDDER'S OBLIGATION TO CLOSE AND TO PAY THE BALANCE OF THE

PURCHASE PRICE ON THE BACK-UP CLOSING DATE; and

- (xii) If (a) a Qualified Bidder is a Successful Bidder as to the Property, the Deposit as to the Property shall become non-refundable and shall be forfeited by the Successful Bidder as liquidated damages in the event the Successful Bidder shall fail to close the purchase of the Property on the Closing Date, except as otherwise expressly permitted under the PSA; and (b) if the Debtor and Broker determine to proceed with the Back-up Bid after default by the Successful Bidder, the applicable Deposit shall become non-refundable and shall be forfeited by such Back-up Bidder as liquidated damages if the Back-up Bidder shall fail to close the purchase of such Property on the Backup Closing Date (as defined herein), except as otherwise expressly permitted under the PSA.

B. **Closing on Back-up Bid.** If for any reason the Successful Bidder shall fail to timely close the sale of the Property, and the Debtor determines to proceed with the Back-up Bid, the Back-up Bidder shall close on the purchase of the Property and pay the amount of the Back-up Bid, less its Deposit previously posted, on the later of the Closing Date and thirty (30) days after written notice of the Successful Bidder's default in closing ("**Back-up Closing Date**"), with TIME BEING OF THE ESSENCE AS TO THE BACK-UP BIDDER'S OBLIGATION TO CLOSE ON THE BACK-UP CLOSING DATE AND TO PAY THE BALANCE OF THE PURCHASE PRICE AT THE CLOSING. Back up Bidder deposit shall be held to within 72 hours of closing; if no successful closing they become the successful qualified bidder. In any case, the Debtor has until 80 days after the Auction to determine to proceed with the Back-up Bid. If the Debtor proceeds with such Back-up Bid, then the Back-up Bidder shall be obligated to close title to the Property and there shall be no contingency of any kind or nature that will permit the Back-up Bidder not to proceed on the Back-up Closing Date other than the inability to deliver title to the Property. In the event the Back-up Bidder shall be obliged, but shall fail, to close purchase of the Property timely in accordance with the provisions of the PSA entered into, the Back-up Bidder shall be in default, and the Back-up Bidder shall forfeit its Deposit. Notwithstanding the foregoing, the Debtor shall have the right, but not the obligation, to extend the Back-up Closing Date up to an additional thirty (30) days ("**Adjourned Back-up Closing Period**"), with TIME BEING OF THE ESSENCE as to such Back- up Bidder's obligation to close prior to the expiration of the Adjourned Back-up Closing Period; and in such event, if the Back-up Bidder shall fail to close the purchase of the Property prior to expiration of the Adjourned Back-up Closing Period in accordance with the provisions of its PSA, the Backup Bidder shall be in default and the Back-up Bidder shall forfeit its Deposit.

C. **Joint Notice to Escrow Agent.** The Debtor and, as applicable, the Potential

Bidder, Qualified Bidder, Successful Bidder and/or Back-Up Bidder agree to execute an appropriate joint notice to the Escrow Agent for the return of any Deposit to the extent such return is required by these Bid Procedures. If either party fails to execute such written notice, the Deposit may be released by an order of the Bankruptcy Court.

### ***CONSENT TO JURISDICTION AND AUTHORITY TO CONDITION TO BIDDING***

All Potential Bidders (including a Qualified Bidder, the Successful Bidder, and the Back-Up Bidder) shall be deemed to have (i) consented to the core jurisdiction of the Bankruptcy Court to enter any order or orders, which shall be binding in all respects, in any way related to the Bid Procedures, an Auction, or the construction and enforcement of any agreement or any other document relating to the Sale, (ii) waived any right to a jury trial in connection with any disputes relating to the Bid Procedures, an Auction, or the construction and enforcement of any agreement or any other document relating to the Sale, and (iii) consented to the entry of a final order or judgment in any way related to the Bid Procedures, an Auction, or the construction and enforcement of any agreement or any other document relating to the Sale if it is determined that the Bankruptcy Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the parties.

### ***RESERVATION OF RIGHTS***

The Debtor reserves the right, in its reasonable discretion and subject to the exercise of its business judgment, to alter or terminate these Bid Procedures, to waive terms and conditions set forth herein with respect to all Potential Bidders, extend the deadlines set forth herein, alter the assumptions set forth herein, and/or to terminate discussions with any and all prospective acquirers and investors (except for the Successful Bidder) at any time and without specifying the reasons therefor, in each case to the extent not materially inconsistent with these Bid Procedures and/or the Bid Procedures Order; provided that the Debtor's exercise of its discretion in evaluating bids and administering the Bidding and Auction Process does not permit, and shall not be construed as permitting, the Debtor to materially deviate from the procedures, terms, conditions, and protections set forth in these Bid Procedures or the Bid Procedures Order in a way that would compromise the sale process.